
2003

Nebraska Fiduciary Income Tax Booklet



Questions?

Call Taxpayer
Assistance

1-800-742-7474

(toll free in NE or IA)
or **1-402-471-5729.**

Included in this Booklet:

Form 1041N, and
Schedules I, II, and III.

NEBRASKA
possibilities...endless.™

Visit us at
www.revenue.state.ne.us

2003 Nebraska Fiduciary Income Tax

INSTRUCTIONS

Bonus Depreciation. Due to the passage of LB 596 by the 2003 Nebraska Legislature, a fiduciary must report any distributed federal bonus depreciation to its beneficiaries. The beneficiaries will have to add back 85 percent of their share of the bonus depreciation on their individual income tax returns. Any amount added back may be reclaimed in a later year. Twenty percent may be subtracted in the first taxable year beginning on or after January 1, 2006, and 20 percent in each of the following four taxable years.

Reminder: For tax years 2001 and 2002 beneficiaries must add back 85 percent of their share of the fiduciary's bonus depreciation claimed in those years. Twenty percent of the tax year 2001 and 2002 bonus depreciation added back may be subtracted in the first taxable year beginning on or after January 1, 2005, and 20 percent in each of the next four taxable years.

FIDUCIARY DEFINED. The term "fiduciary" means a trustee, personal representative, executor, administrator, or any person acting in a similar capacity for another person.

WHO MUST FILE. Every fiduciary of a resident estate or trust must file a Nebraska Fiduciary Income Tax Return, Form 1041N, if the estate or trust is required to file a federal income tax return for the taxable year.

A fiduciary return is not required, however, for a **simple trust** if all of the trust's beneficiaries are residents of the state of Nebraska, all of the trust's income is derived from sources in this state, the trust has no federal taxable income, and the trust is not an electing small business trust.

The fiduciary of a nonresident estate or trust must file a Nebraska Fiduciary Income Tax Return, Form 1041N, if the estate or trust is required to file a federal income tax return for the taxable year and the estate or trust had income derived from Nebraska sources. The fiduciary shall be responsible for filing the return for the estate or trust, whether the income is taxable to the estate or trust or to the beneficiaries. If the income is taxable to the beneficiaries, the fiduciary must include a statement of each beneficiary's distributive share of net income.

A trust which is taxable as a corporation for federal income tax purposes must file a Nebraska Corporation Income Tax Return, Form 1120N.

Electing Small Business Trust. An electing small business trust which reports and pays a federal income tax pursuant to I.R.C. §641(c) on income from an S corporation doing business in Nebraska must report and pay Nebraska income tax on such income. Such tax is reported on line 11 of Form 1041N along with alternative minimum tax. See line 11 instructions for further information.

Bankruptcy Estate for an Individual. The bankruptcy trustee or debtor in possession must file Form 1041N for the estate of an individual involved in bankruptcy proceedings under Chapter 7 or 11 of Title 11 of the United States Code where a fiduciary income tax return is required under the provisions of the Internal Revenue Code. Figure the tax for the bankruptcy estate on Form 1040N using the tax rate schedule for a married person filing separately and subtracting one personal exemption credit. Enter the tax on line 27 of the Form 1040N and on line 10 of Form 1041N. Complete the remaining lines of Form 1041N. Attach Form 1040N to Form 1041N. If there are no federal filing requirements for Chapter 12 bankruptcy proceedings, there are no Nebraska filing requirements.

Bankruptcy Estate for Corporations and Partnerships. Unlike the situation for an individual in bankruptcy, the commencement of bankruptcy proceedings for a corporation or partnership does not create a separate taxable entity. Therefore, there is no federal filing requirement for the bankruptcy trustee and no Nebraska filing requirement.

Exempt Trusts. A trust, which by reason of its purposes and activities is exempt from federal income tax, is also exempt from Nebraska income tax.

Exempt trusts filing an Exempt Organization Business Income Tax Return, Federal Form 990-T, to report unrelated business income must file a Nebraska return and pay tax to Nebraska. If the federal tax was computed at the corporate rates, the fiduciary must file a Form 1120N. If the federal tax was computed at the fiduciary rates, the fiduciary must file a Form 1041N.

WHEN AND WHERE TO FILE. This return must be filed on or before the 15th day of the fourth month following the close of the taxable year of the estate or trust. If this return is being filed by an exempt organization which has unrelated business income, the due date is the 15th day of the fifth month following the close of the taxable year of such exempt organization.

File the return with the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818. For assistance, see the back cover of this booklet.

RESIDENCE OF ESTATES AND TRUSTS. The residence of an estate or trust is the same as the domicile of the deceased at the time of death, or of the creator of the trust at the time the trust or a portion of the trust became irrevocable. The residence of a trust is not changed by a change in the domicile of the creator or a change in location of the property of the trust. The residence of the fiduciary does not affect the residence of the estate or trust.

PERIOD TO BE COVERED BY RETURN. This return must be filed for the 2003 calendar year or a fiscal year beginning in 2003. An estate or trust filing for a fiscal year or filing a short-period return must enter the beginning and ending dates of the taxable year in the space provided at the top of the return. The taxable year for Nebraska must be the same as the taxable year used for federal income tax purposes. If the estate or trust changes the federal taxable year, it must change the Nebraska taxable year accordingly. A copy of the approval from the Internal Revenue Service must accompany the first return which reflects the change.

Check the box "Final Return" at the top of the return if the estate or trust ceased to exist during the 2003 tax year.

EXTENSION OF TIME. It is not necessary to request a Nebraska extension of time when the estate or trust has been granted an extension of time to file the federal return. Attach a copy of the approved federal extension to the Nebraska return.

An extension of time to file may be obtained from the Nebraska Department of Revenue even though the estate or trust does not request a federal extension of time. The extension must be requested on Nebraska Application for Extension of Time to File, Form 2688N, on or before the due date of the return. All extensions are limited to a total of seven months.

ESTIMATED TAX PAYMENTS. Nebraska does not provide estimated payment vouchers for fiduciary income tax. If an estimated tax payment is being made, specifically identify it as a fiduciary estimated tax payment. Also indicate the Nebraska fiduciary identification number and the tax year. Report the estimated tax payments on line 21.

PAYMENT OF TAX. The balance of tax due must be paid with the return. Make the check or money order payable to the Nebraska Department of Revenue. Write the Nebraska identification number on the face of the remittance. A tax amount due of less than \$2.00 need not be remitted, unless that amount includes penalty, interest, or withholding from nonresident beneficiaries. An overpayment in the amount of \$2.00 or more will be refunded. Checks written to the Department of Revenue may be presented for payment electronically.

An extension of time granted to file Form 1041N does not extend the date for payment of tax. If a payment was made with a request for Nebraska extension of time to file, report the payment on line 21 and attach a copy of the correspondence granting the extension.

PENALTIES AND INTEREST. Penalties and interest are imposed when a return is not timely filed or the tax is not paid by the due date. Reporting the amounts on the federal return will not prevent imposition of penalties for negligence or for filing a false or fraudulent return.

Income tax not paid by the due date will accrue interest at the statutory rate until paid.

AMOUNTS INCLUDED IN THE RETURN OF THE BENEFICIARY. Beneficiaries are subject to Nebraska income tax on their share of the fiduciary's distributed income and bonus depreciation derived from or attributable to sources within Nebraska.

AMOUNTS REPORTABLE AS NEBRASKA INCOME BY THE BENEFICIARIES. A fiduciary must provide all beneficiaries with a schedule listing the amount and type of income, deductions, and bonus depreciation that are to be included in each beneficiary's Nebraska tax return.

A Federal K-1 may be used for each beneficiary, provided it is modified to include the beneficiaries' share of any U.S. government interest, state and local obligations, and bonus

depreciation. The amounts reported on the K-1 must be calculated in the same manner as income is distributed.

Accumulation Distribution. If the accumulation distribution is included in the beneficiaries' federal adjusted gross income, it should be included in the beneficiaries' Nebraska taxable income.

NONRESIDENT BENEFICIARY WITHHOLDING. A nonresident individual beneficiary with income derived from or connected with sources in Nebraska should forward a completed Nebraska Nonresident Income Tax Agreement, Form 12N, to the fiduciary before the filing of the Nebraska Fiduciary Income Tax Return. The fiduciary must attach the completed Form 12N to the fiduciary return. The Form 12N is an agreement by a nonresident of Nebraska to file a Nebraska Individual Income Tax Return, Form 1040N, and to report and pay Nebraska income tax on Nebraska source income attributable to the taxpayer's interest in an estate or trust.

The fiduciary is required to withhold Nebraska income tax from each nonresident individual beneficiary for whom a completed Form 12N is not attached. The amount withheld is 6.84 percent of the nonresident individual beneficiary's distributable share of bonus depreciation add-back (see line 6 instructions) and distributable net income derived from or attributable to sources within Nebraska. The fiduciary must report the amount withheld from each individual beneficiary on the Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N.

The nonresident individual beneficiary may claim the amount withheld as a credit against his or her Nebraska income tax liability by attaching a copy of Form 14N to the Form 1040N.

If a nonresident individual beneficiary's only source of Nebraska income was his or her share of the estate's or trust's Nebraska income and bonus depreciation add-back and a Form 12N was not filed, the nonresident has an option **not** to file a Nebraska individual income tax return. If this option is taken, then the amount of tax withheld by the estate or trust is retained by the state in satisfaction of the nonresident's Nebraska income tax liability.

ACCOUNTING METHODS. The method of accounting used for federal income tax purposes must also be used for Nebraska income tax purposes. An estate or trust cannot change the method of accounting used in reporting income in prior years unless the change is approved by the Internal Revenue Service. A copy of this approval must accompany the first return which reflects the change in the method of accounting.

ROUND TO WHOLE DOLLARS. The amounts on the return and schedules are to be shown in whole dollars. Round any amount from 50 cents through 99 cents to the next higher dollar. Round any amount less than 50 cents to the next lower dollar.

FEDERAL RETURN. A copy of the actual federal return and supporting schedules filed with the Internal Revenue Service **must** be attached to this return.

CHANGES OR CORRECTIONS IN FEDERAL RETURN. Any estate or trust whose reported income or deductions are changed by the Internal Revenue Service, or through renegotiation of a contract with the United States, is required to report the change or correction to the Nebraska Department of Revenue. The report must be made within 90 days of the determination by filing a Nebraska Fiduciary Income Tax Return, Form 1041N, and by checking the box "Amended Return" at the top of the return.

Any estate or trust which files a federal amended return with the Internal Revenue Service must file an amended return with the Nebraska Department of Revenue within 90 days of the filing of the federal amended return. Attach a copy of the federal amended return to the Nebraska amended return.

Any change or correction reported must be mailed separately from the annual return for the estate or trust.

If another state's return is amended or changed by the other state, an "Amended" Form 1041N must be filed to report the change in the credit for tax paid to another state. Attach a copy of the corrected Nebraska Schedule III and a copy of the amended return filed with the other state or a copy of a letter or statement from the other state showing the corrected tax paid.

NONHIGHWAY USE MOTOR VEHICLE FUELS CREDIT. Any estate or trust purchasing nonhighway use motor vehicle fuels may claim a credit for fuels purchased by filing a Nebraska Nonhighway Use Motor Vehicle Fuels Credit Computation, Form 4136N, which may be obtained from the Nebraska Department of Revenue and most banks and savings and loan associations. For more information, contact the department.

COMMUNITY DEVELOPMENT ASSISTANCE ACT CREDIT (CDAA). A fiduciary for an estate which operates a business is allowed a credit for a contribution made to a community betterment organization recognized by the Nebraska Department of Economic Development. The Nebraska Community Development Assistance Act Credit Computation, Form CDN, and a copy of Form 1099NTC must be attached to the Form 1041N. Further information on this credit is available from the Nebraska Department of Economic Development, Housing and Community Development at 1-800-426-6505, extension 4169 or 1-402-471-4169.

EMPLOYMENT AND INVESTMENT GROWTH CREDIT. Legislation has created credits designed to encourage additional investment and employment in Nebraska. Attach Form 3800N if this credit is claimed.

For more detailed information, see the instructions to Form 3800N which may be obtained from the department. For additional assistance, contact the department.

BEGINNING FARMER CREDIT. Owners of agricultural assets which are rented to qualifying beginning farmers or livestock producers are allowed a refundable income tax credit based on the rental income. The credits must be approved by the Beginning Farmer Board. For additional information contact the Nebraska Department of Agriculture at 1-800-446-4071 or 1-402-471-6890.

SIGNATURES. This return must be signed by the fiduciary or officer of the organization receiving, having custody of, or controlling and managing the income of the estate or trust. If the fiduciary authorizes another person to sign this return, there must be a power of attorney on file with the Nebraska Department of Revenue.

Any person who is paid for preparing a taxpayer's return must also sign the return as preparer.

SPECIFIC INSTRUCTIONS

GRANTOR TYPE TRUST. If all income, deductions, and credits are reported by the grantor, his or her spouse, or other person under Internal Revenue Code Sections 671-678, and such person is not the trustee, lines 1 through 26 of the Form 1041N need not be completed. A copy of the federal return need not be attached. Write "Schedule Attached" on line 1, and attach a separate statement showing the items of income, deduction, and credit. The name, address, and identifying number of the grantor, spouse, or other person to whom the income is taxed must be included in the separate statement.

If the fiduciary is not required to file a federal return, do not file Form 1041N.

ESTATES AND IRREVOCABLE TRUSTS.

LINE 3. Enter the portion of interest or dividends from U.S. government obligations not distributed to beneficiaries.

FIDUCIARIES WITH UNDISTRIBUTED FEDERAL BOND INTEREST. Undistributed U.S. government bond interest is subtracted from the Nebraska tax base. U.S. government interest or dividend income includes, but is not limited to, U.S. Savings Bonds and U.S. Treasury Bills. See the Nebraska Individual Income Tax Booklet or Regulation 23-004 for a listing of U.S. government interest or dividend income deductible for Nebraska income tax purposes. Interest income from repurchase agreements involving U.S. government obligations is **not** deductible as U.S. government interest.

LINE 5, FIDUCIARIES WITH UNDISTRIBUTED STATE AND LOCAL BOND INTEREST. Undistributed state or local bond interest exempt from federal taxation is an addition to the Nebraska tax base and is reported on line 5 of Nebraska Form 1041N. Interest from Nebraska source bonds is not added back.

The portion of the estate tax deduction claimed on Federal Form 1041 for income that is not subject to Nebraska income tax must be added back. The total of the amounts on line 3 and line 8, divided by the total income used to determine the estate tax deduction, is multiplied by the estate tax deduction to determine the portion to add back.

LINE 6, UNDISTRIBUTED BONUS DEPRECIATION ADD-BACK. Multiply the total undistributed bonus depreciation claimed on the federal return by 85 percent (.85) and enter the result on line 6.

The amount of bonus depreciation added back to federal taxable income for Nebraska purposes shall be subtracted in later taxable years. Twenty percent of the total amount added back may be subtracted in the fiduciary's first taxable

year beginning or deemed to begin on or after January 1, 2006, and twenty percent in each of the next four taxable years.

Reminder: For tax years 2001 and 2002 fiduciaries must add back 85 percent of the undistributed bonus depreciation claimed in those years. Twenty percent of the tax year 2001 and 2002 bonus depreciation added back may be subtracted in the first taxable year beginning on or after January 1, 2005, and 20 percent in each of the next four taxable years.

LINE 8. Estates and trusts are not allowed to deduct income earned or derived outside Nebraska. However, a resident estate or trust may be entitled to a credit for income tax paid to another state. See the instructions for Credit for Tax Paid to Another State for Resident Estate or Trust Only, Nebraska Schedule III. A nonresident estate or trust must complete Computation of Nebraska Tax for Nonresident Estate or Trust Only, Nebraska Schedule I, to determine Nebraska income tax on total Nebraska source income.

Nonresident estates and trusts may deduct income amounts included in federal taxable income but not included in federal distributable net income. The nonresident estate or trust must then attach Schedule B, Federal Form 1041, to its Nebraska Form 1041N.

Adjustments for the Nebraska College Savings Plan. Fiduciaries may deduct from federal taxable income **gifts, grants, and donations** made to the endowment fund of the Nebraska College Savings Plan Trust (Trust) to the extent not already deducted for federal income tax purposes. Attach a copy of the letter from the State Treasurer's Office acknowledging receipt of the donation or contribution. Fiduciaries making **contributions** as participants in the Trust may deduct contributions on line 8 up to \$1,000 per tax year.

Federal income taxes paid cannot be deducted as an adjustment decreasing federal taxable income for state purposes.

LINE 10. Figure the tax using the schedule below. Enter the tax on line 10. Nonresident estates and trusts should use this tax rate schedule to compute line 28 of Nebraska Schedule I.

2003 NEBRASKA TAX RATE SCHEDULE FOR FIDUCIARY INCOME TAX RETURN			
If taxable income is:		The Nebraska tax is:	
over —	but not over		
\$ 0	\$ 500	2.56% of the income	
500	4,700	\$12.80 + 3.57% of the excess over \$500	
4,700	15,150	\$162.74 + 5.12% of the excess over \$4,700	
15,150	—	\$697.78 + 6.84% of the excess over \$15,150	

LINE 11. The Nebraska minimum or other tax is the sum of: (1) federal alternative minimum tax, and (2) federal tax on lump-sum distributions of pensions, multiplied by 29.6 percent (.2960).

A credit for prior year minimum tax is available. The federal credit is recalculated for Nebraska in accordance with Revenue Ruling 23-03-2. Request a copy if needed.

USE THE WORKSHEET BELOW to compute your line 11 entry. Nonresidents should use this worksheet to compute line 29 of Nebraska Schedule I.

NEBRASKA MINIMUM OR OTHER TAX WORKSHEET (Use to compute line 11, Form 1041N. Keep for your records.)	
1. Alternative minimum tax, amount on Federal Form 1041, Schedule I, recalculated for Nebraska in accordance with Nebraska Revenue Ruling 23-03-1	_____
2. Tax on lump-sum distributions of pensions (enter amount from Federal Form 4972)	_____
3. SUBTOTAL (Add lines 1 and 2)	_____ x .2960
4. TOTAL (Subtotal multiplied by 29.6%)	_____
Enter this total on line 11, Form 1041N	
Attach a copy of your Federal Form 4972 and/or recomputed Federal Form 1041, Schedule I, to your return.	

ELECTING (QUALIFYING) SMALL BUSINESS TRUSTS must compute Nebraska income tax on income received from S corporations doing business in Nebraska and which is taxed federally under I.R.C. §641(c). **This income should not be included in lines 1-9 of Form 1041N. Nor should this income be included in the Nebraska Schedule I computation of tax for nonresident estates or trusts.** Instead, attach a separate schedule computing the trust's share of S corporation income earned in Nebraska. Compute the tax based on the Nebraska tax rate schedule found in the line 10 instructions. Add this amount to any tax computed on the Nebraska minimum or other tax worksheet and enter this total on line 11. This separately calculated tax is then combined with any tax amount calculated and entered on line 10 to compute the total Nebraska tax to enter on line 12 of Form 1041N.

LINE 12. Nonresident estates and trusts do **not** enter amounts on lines 10 and 11 to determine the line 12 entry. Nonresident estates and trusts must complete Nebraska Schedule I to determine the line 12 entry.

LINE 13. Enter the amount of Nebraska income tax withheld from the nonresident beneficiaries not completing Form 12N. This is the total amount from column G, Schedule II. A Form 14N for each nonresident beneficiary who did not complete Form 12N must be attached to the Nebraska fiduciary return.

CREDITS. Enter the allowable credits only if the fiduciary does not distribute its income currently.

LINE 16. Attach the Community Development Assistance Act Credit Computation, Form CDN, **and** a copy of Statement of Nebraska Tax Credit, Form 1099 NTC.

LINE 22. Attach a copy of the Statement of Nebraska Tax Credit, Form 1099 BFC, to Form 1041N.

LINE 23. Enter Nebraska income tax withheld on salary or wage checks included in the income of the estate and attach the Nebraska copy of the Wage and Tax Statement, Federal Form W-2. Enter any withholding shown on Federal Forms 1099-R or W-2G if the income is included.

LINE 25. Enter the balance of tax due, line 19 minus line 24. Make check or money order payable to the Nebraska Department of Revenue. An amount due of less than \$2.00 need not be remitted unless that amount includes penalty, interest, or income tax which has been withheld. Checks written to the Department of Revenue may be presented for payment electronically.

LINE 26. Enter the amount of overpayment, line 24 minus line 19. An overpayment of less than \$2.00 will not be refunded.

SCHEDULE I – Computation of Nebraska Tax for Nonresident Estate or Trust Only

Nonresident estates and trusts must complete Nebraska Schedule I, Form 1041N, to determine the tax on their taxable income derived from or connected with Nebraska sources.

LINE 28. Enter the Nebraska income tax on the taxable income shown on line 9, Form 1041N. See line 10 instructions and the tax rate schedule.

LINE 29. Enter the Nebraska minimum and other taxes. See line 11 instructions and complete the worksheet provided.

LINE 31. NEBRASKA INCOME AND BONUS DEPRECIATION ADD-BACK. Enter 85 percent of the undistributed bonus depreciation and the entire undistributed income. Include the Nebraska portion of taxable income reported on lines 1, 2a, 3, 5, 6, and 8 of the U.S. Fiduciary Income Tax Return, Federal Form 1041. Attach a schedule listing the income and bonus depreciation add-back.

If there was business activity in more than one state and any such activity had income from Nebraska sources, only a portion of the fiduciary's income and bonus depreciation is included on line 31. The portion included will be based on the same ratio that income from Nebraska bears to total income for that business activity. A separate calculation is required for each separate business activity.

LINE 32. Enter the taxable amount of Nebraska capital and ordinary gain or loss reported on lines 4 and 8 of Federal Form 1041, and attach a schedule. The reportable gains (losses) may include those from the sale of the following properties located in Nebraska: real property; trade or business property; depreciable and amortizable property; oil, gas, geothermal, or other mineral properties; section 126 property; and tangible personal property located in Nebraska at the time of sale.

LINE 33. The adjustments must relate to the Nebraska income amounts reported on lines 31 and 32.

LINE 35. The factors computed in the division calculation of this line must be calculated to five digits and rounded to four digits. For example, if the numerator divided by the denominator equals .12345, round to .1235 (12.35%) before multiplying by line 30. The ratio computed in line 35 cannot be more than 100 percent.

SCHEDULE II – Nonresident Beneficiary's Share of Nebraska Income, Bonus Depreciation Add-Back, Deductions, and Credits

Enter the name, address, and social security number (Nebraska identification number) of each nonresident beneficiary. If additional space is needed, attach another schedule using the same format as Nebraska Schedule II.

If a simple trust with out-of-state beneficiaries has only portfolio income to report, Schedule II need not be completed. Instead check the box under the Schedule II title.

Where the nonresident beneficiary is an entity instead of an individual, omit columns D, E, and G. Only individuals are subject to Form 12N or Form 14N filing requirements.

COLUMN B. Enter the nonresident beneficiary's share of the bonus depreciation add-back and distributable net income which was derived from or attributable to sources within Nebraska. Include only current earnings distributions, not accumulation distributions. Passive income, such as non-business related interest, is not included in Nebraska income.

COLUMN C. Enter the nonresident individual beneficiary's share of the deductions related to the income included in column B.

COLUMN D. If you check this column and Forms 12N are attached, omit columns E and G.

COLUMN E. Enter the nonresident beneficiary's share of bonus depreciation add-back and Nebraska income subject to withholding. Subtract column C from column B, and enter the difference or zero, whichever is greater.

COLUMN G. Enter 6.84 percent of column E. This is the amount of Nebraska income tax to be withheld for each nonresident individual beneficiary who did not complete Form 12N. Report the amount withheld from each nonresident individual beneficiary on a Statement of Nebraska Income Tax Withheld for Nonresident Individual, Form 14N.

SCHEDULE III – Credit for Tax Paid to Another State for Resident Estate or Trust Only

A resident estate or trust may claim a credit for income tax paid to another state, political subdivision of another state, or the District of Columbia.

LINE 4. Attach a copy of the income tax return filed with the other state, or a copy of a letter or statement from the other state or city stating the amount of income and the tax paid. If the estate or trust is claiming credit for income tax paid to a political subdivision of another state in which no annual income tax return is required, then attach a Federal Form W-2 statement to support the claimed credit. Prepare a separate Nebraska Schedule III for each state in which income tax was paid. However, if some income is subject to income tax in both another state and a city within that state, complete only one Nebraska Schedule III and combine the city and state taxes paid.

LINE 5. The maximum tax credit is the smallest of the computed tax credit, the tax due and paid to the other state, or the Nebraska income tax.